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Ropers Majeski Kohn & Bentley
A Professional Corporation
San Francisco

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Filed

MAY 16 2012

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

ADR

Attorneys for Defendant
CHASE BANK USA, N.A.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE

VICTORIA SMITH,

Plaintiff,

v.

CHASE BANK USA, NATIONAL
ASSOCIATION an FDIC insured
corporation and DOES 1 through 100
inclusive,

Defendants.

CV 12-02510

CASE NO.

HRL

**NOTICE OF REMOVAL OF CIVIL
ACTION FROM STATE COURT TO THE
UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF
CALIFORNIA**

**TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA, AND ALL PARTIES AND THEIR
ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. § 1441(a), defendant Chase Bank USA, N.A. ("Chase") hereby removes the above-entitled action from the Superior Court of the State of California in and for the County of Santa Clara to the United States District Court for the Northern District of California based on the following facts:

1. On or about April 16, 2012, plaintiff Victoria Smith filed an action in the Superior Court of California for the County of Santa Clara, entitled *Victoria Smith v. Chase Bank USA, National Association, et al.*, Case No. 112CV222574 ("the Action"). Copies of the summons and

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1 complaint filed in the Action are attached hereto as Exhibit A. These are the only papers and
 2 pleadings available in the Action.

3 2. The Action alleges violations of the Fair Credit Reporting Act, 15 U.S.C. §1681s-
 4 2, et seq., the California Song-Beverly Credit Card Act, Cal. Civ. Code §1741, the California
 5 Consumer Credit Reporting Act (CCRAA”), Cal. Civ. Code § 1785.1, et seq., and the California
 6 Business & Professions Code § 17200. The Action also asserts causes of actions for libel,
 7 intentional and negligent infliction of emotional distress, deceit, and constructive fraud. See
 8 Complaint, ¶ 1.

9 3. The Action is a case under which this Court has original jurisdiction pursuant to 28
 10 U.S.C. § 1331, and is one which may be removed to this Court by a defendant pursuant to the
 11 provisions of 28 U.S.C. § 1441(a), in that plaintiff alleges claims under the Federal Fair Credit
 12 Reporting Act in the following paragraphs:

13 a. Paragraph 1: “Plaintiff seeks monetary, declaratory and injunctive relief
 14 based on violations of Fair Credit Reporting Act, 15 U.S.C. 1681s-2 et. seq., . . .”

15 b. Paragraph 20: “The actions of Creditor as alleged herein are acts in
 16 violation of the Fair Credit Reporting Act, 15 U.S.C. § 1681s-2(b).”

17 c. Paragraph 31: “Equifax and Experian sent notice of Plaintiff’s dispute to
 18 Creditor pursuant to Section 1681i(a)(2) of the Fair Credit Reporting Act. Creditor was thereafter
 19 under a duty to reasonably investigate Plaintiffs dispute pursuant to section 15 U.S.C. 1681s-
 20 2(b).”

21 d. Paragraph 34: “Plaintiff is informed that Creditor separately violated
 22 1681s-2(b) by failing to report to Equifax that the account information was in dispute after
 23 receiving notice of Plaintiff’s dispute from Equifax.”

24 e. Paragraph 35: “Creditor should have discovered the inaccuracies on
 25 Plaintiff’s credit report through its investigation and should have modified, deleted, or blocked
 26 said information pursuant to 15 U.S.C. § 1681s-2(b)(1)(E).”

27 f. Paragraph 36: “. . . creditor willfully and negligently failed to comply with
 28 its duty to investigate Plaintiff’s dispute under 15 U.S.C. 1681(n) & (o).”

1 g. Paragraph 64: "Additionally, these acts and practices were and were likely
2 to continue to mislead the general public in that they constitute violations of Fair Credit Reporting
3 Act, 15 U.S.C. § 1681s-2(b) . . ."

4 h. PRAYER, Paragraph b: "Award \$10,000 in statutory and actual damages
5 pursuant to 15 U.S.C. § 1681n . . ."

6 i. PRAYER, Paragraph c: "Award punitive damages in order to deter further
7 unlawful conduct pursuant to 15 U.S.C. § 1681n . . ."

8 j. PRAYER, Paragraph e: "Award attorney's fees and costs of suit incurred
9 herein pursuant to 15 U.S.C. § 1681 n & o . . ."

10 k. PRAYER, Paragraph f: "For determination by the Court that Creditor's
11 policies and practices are unlawful and in willful violation of 15 U.S.C. § 1681n, et seq. . ."

12 l. PRAYER, Paragraph g: "For determination by the Court that Creditor's
13 policies and practices are unlawful and in negligent violation of 15 U.S.C. § 1681o."

14 m. PRAYER, Paragraph h: "Enjoin Creditor from continuing its policies and
15 practices pursuant to 15 U.S.C. § 1681n . . ."

16 4. The Action is therefore specifically alleged to be a case that arises under Federal
17 Law within the meaning of 28 U.S.C. § 1331.

18 5. VENUE: Paragraphs three and four of plaintiff's complaint alleges that venue is
19 proper in the County of Santa Clara, because the plaintiff "is an individual and currently resides
20 in the county of Santa Clara, California." Complaint, ¶ 3. Based on plaintiff's allegations, venue
21 of this action is proper in the San Jose division of this Court pursuant to L.R. 3-2(e).

22 6. Chase was served with a copy of summons and complaint in the Action on April
23 17, 2012, and thirty days from that date have not elapsed. This notice of removal is therefore
24 being filed within thirty days after service of a copy of the initial pleading setting forth the claims
25 for relief upon which the Action or proceeding is based.

26 7. For reasons stated above, Chase hereby removes the above-entitled Action to this
27 Court.
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Dated: May 15, 2012

ROPERS, MAJESKI, KOHN & BENTLEY,
PC

By: /s/ Wendy C. Krog

GEORGE G. WEICKHARDT
WENDY C. KROG
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CHASE BANK USA, N.A.